

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7090

BILL NUMBER: HB 1151

NOTE PREPARED: Feb 5, 2004

BILL AMENDED: Feb 4, 2004

SUBJECT: Absentee Ballots.

FIRST AUTHOR: Rep. Mahern

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

The bill permits a voter who is qualified to vote in person to vote by absentee ballot by mail. The bill removes all other qualifications for a voter to vote by absentee ballot by mail except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.)

The bill requires an absentee ballot application to be filed within specific times. The bill requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. The bill requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury.

The bill permits an absentee voter board or the circuit court clerk to compare the signature on an absentee ballot application to the signature on the voter's registration record to make certain determinations regarding the validity of an absentee ballot. The bill permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law.

The bill provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. The bill requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. The bill makes other changes relating to absentee ballots, eligibility of individuals serving as watchers, and the recounting of ballots.

The bill establishes new criminal offenses relating to fraud and misrepresentation in elections. The bill requires the Legislative Council to direct a legislative study committee to study existing criminal penalties

for election law violations.

Effective Date: (Amended) Upon passage; July 1, 2004.

Explanation of State Expenditures: (Revised) *Summary:* Under the bill, more individuals may request an absentee ballot either through mail or by absentee voter board. The Indiana Election Division prints absentee ballots for certain counties using optical scan voting machines. If the quantity of absentee ballots demanded were to increase as a result of the bill, the Election Division could see an increase in ballot expenditures. For illustrative purposes only, if 10,000 additional absentee paper ballots were requested, the estimated cost would be about \$550.

The Election Commission would be required to prescribe absentee ballot application forms to comply with the bill by no later than March 31, 2004. Application forms would include a section that would require an applicant to swear the application was filled out in truthful manner under penalty of perjury. Additionally, the Commission would need to prescribe an official affidavit form for county election board use for individuals filing absentee ballots on behalf of other voters.

The Election Division spent about \$2,600 for printing forms in FY 2003. The Commission's resources should be sufficient to develop the forms necessary to comply with the bill.

Background: For the 2000 general election, the cost of paper ballots per 1,000 voters was about \$54.75. The cost of optical scan ballots was about \$300 per thousand.

The Election Division expended less than \$10,000 for paper ballots in 2002. The Division expended less than \$15,000 for paper ballot production in 2000. In 2000, the Division had printed about 107,000 official presidential ballots, 29,900 sample presidential ballots, 88,950 official statewide office ballots, and about 16,000 sample statewide ballots.

Legislative Council- Under the bill, the Legislative Council would be required to assign an interim or statutory committee a charge to study the existing criminal penalties for election law violations and report all findings to the Legislative Council by electronic format not later than November 1, 2004. This can be covered under their existing budget for interim.

Criminal Penalties- The bill introduces several new criminal penalties, including Class C felony, Class D felony, and Class A misdemeanor provisions. Additionally, the bill upgrades several existing misdemeanor offenses to a felony.

A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years. The average length of stay for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Criminal Penalties-* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony or a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county

court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) *Absentee Ballots*- The provisions of the bill would have an indeterminable impact on local expenditures. More absentee ballots may need to be printed if demand increases. The county election board may also have additional postage expenses for any increase in absentee ballots mailed as a result of the bill.

If additional voters were to choose to vote by mail-in absentee ballot under the provisions of the bill, local election officials could experience an increase in administrative time to tabulate the additional absentee ballots.

Local expenditures could be affected by the potential increased need for county absentee voter boards. Under current law (IC 3-11-10-26.3) county election boards may adopt a resolution to establish a satellite facility within the county where voters may cast absentee ballots before an absentee voter board.

Under current law, absentee voter boards are comprised of two members, one of each major political party. The board members must be voters in the county of service and are appointed to their position by the county election board. Absentee voter board members are entitled to a per diem set by the county executive for performance of their duties. Additionally, members of boards who travel to an individual's place of confinement to allow the individual to vote are allowed a per diem determined by the county executive and travel mileage reimbursement rate determined by the county fiscal body.

Precinct Committee and State Convention Delegate Candidates- Under the bill, candidates would no longer be entitled to have a recount on votes cast for either of these offices. This provision could save the circuit court clerk and the court of jurisdiction administrative time if fewer filings of paperwork for a recount were to occur. The local unit would forgo the filing fees with the court that a petitioner must submit when requesting a recount.

Under the bill, recount commissions would have certain changes made to their duties when conducting a recount. Given that petitioners of a recount must provide either cash or bond the cost of the recount, this provision should have a minimal impact on local expenditures.

Background Recount Commissions: Under current law, recount commissions are composed of three members where two of the members must be members of different major political parties of the state. Members are allowed a per diem of no more than \$100 per day in which they participated in a recount. The judge of the court with jurisdiction over a recount fixes the level of per diem for recount commission members. Any costs to cover recount expenses that exceed the petitioner's cash or bond deposit must be paid from the county general fund without appropriation.

Assistance to Persons with Disabilities & Improper Applications- The bill would give local election officials additional responsibilities with regard to assisting persons with disabilities to fill out absentee ballot applications. The county election board would be able to deny applications for absentee ballots if applications were not filled out in compliance with the instructions provided in the bill. Under the bill, election officials would be able to file an affidavit that attested to improper procedures for filing an application for an absentee ballot. The county election board would conduct a hearing to approve or deny affidavits.

Under the bill, county election boards would be required to provide a copy of the "Absentee Voter's Bill of

Rights in an absentee ballot mailed to a voter. This provision would increase the printing costs to the county election board in order to provide copies of the “Absentee Voter’s Bill of Rights.

Illegal Voter Affidavits- Under current law, the inspector and a judge deliver a sealed bag of affidavits to the county election board after an election. Under the bill, county election boards would be required to perform the following additional administrative responsibilities upon receipt of an affidavit bag: (1) Remove affidavits from the bag, (2) Mail a copy of each affidavit to the Secretary of State, (3) Replace the affidavits within the bag, (4) Reseal the bag and include endorsement of each county election board member.

Criminal Penalties- If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Criminal Penalties-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Legislative Council; Indiana Election Division; Department of Correction.

Local Agencies Affected: Counties; trial courts, local law enforcement agencies.

Information Sources: Indiana Election Division, (317) 232-3939; Election Systems and Software (317) 913-0230; State Budget Agency: *FY2003 General and Rainy Day Fund Summaries*, BUDSTARS; Indiana Sheriffs’ Association, Department of Correction; Auditor of State, Object Trial Balance 6/30/03.

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